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PATENT DEPARTMENT
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EXAMINER

CHIN, PAUL T

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,016

Applicant(s)

GOTZ ET AL.

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 0802.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because it appears that the wrong abstract has been submitted in the application. A new abstract is required to provide again. Correction is required. See MPEP § 608.01(b).

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. **It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

4. The disclosure is objected to because of the following informalities: it appears that on page 3, line 26, the word "be" before "located" should be changed to -- being --, on page 6, line 7, the reference number "A1" should be changed to -- A11 -- (see Figs. 2 and 3), and on page 7, line 4, the reference number "V1" should be changed to -- 1 --.

Appropriate correction is required.

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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The following title is suggested: "Device for adjusting the length of an endless sling and for lifting loads" or other appropriate title. The language of the recited phrase "a stop means" should be changed to -- a sling -- or -- a strap -- because the meaning of the "stop means" is misleading, and is not clearly defined according to the invention.

Claim Objections

6. Claims 1,3,4,6,9, and 13-15 are objected to because of the following informalities: the claimed languages of claims 1 and 13 are unclear as to whether applicant is claiming the "device" alone or is claiming the "device" in combination with "an adjustable sling or stop means." For example, in claim 1, applicant recites a device *"for adjusting the effective length during transport of a load of a stop means designed as continuous loop, in particular to a textile band folded or woven into a circular loop, or a continuous rope"* and the examiner, as best understood, considers the phrase as the intended use of the device. However, the examiner considers claim 13 as a combination of a lifting device and an adjustable sling, due to the claim language or usage of *"with a stop means"* *"which connects a lifting device"* and *"with [a] the device"*. Therefore, the following examination is based on the above consideration.

Moreover, it appears that the claimed language of the phrases "a stop means" (claims 1,3,4,6,9,13-15) should be changed to -- a sling -- or -- a strap -- because the meaning of the "stop means" is misleading. Similarly, the phrase "a respective stop point" (claim 13, line 11) should be changed to -- a respective lifting point --. Further, it appears that the claim language are a lateral translation of the foreign application and the applicant is recommended to make sure that the claimed languages are clearly, particularly point out, and distinctly defined. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 7,10,11, and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meaning of the phrase “*the force-absorbing surface over which the deflection element (10,11) is attached to the carrier part (2) is located in a plane situated above the projections*” (claim 7) is not clearly understood. The claimed phrase “*the force-absorbing surface over which the deflection element (10,11) is attached*”, particularly, is confusing as to whether the “force-absorbing surface” refers to the “opening (9) (Fig. 2) where the deflection element is attached to” or the “bottom surface of the carrier part where the deflection is attached (Fig. 3)”.

Moreover, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by “such as” and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the

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decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 13 recites the broad recitation “a continuous loop” (line 2), and the claim also recites “a textile band folded or woven into circular loop” which is the narrower statement of the range/limitation.

Further, there is no antecedent basis for “the force-absorbing surface” (claim 7, line 1), “the deflection element” (claim 7, line 2, claims 10 and 11, line 1) (claim 7 depends on claim 5), “the projections (V1,V2)”, (claim 7, line 3), which is different from the projections (3,4), or “the two segments of the stop means” (claim 14, line 5).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3,5,9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggeman [3,002,780].

Eggeman [3,002,780] discloses a device for adjusting the effective length during transport of a load of a continuous rope, the device comprising a carrier part (see Figs. 1,3,5) having two opposed and spaced sides, each hook-shaped projection (18,24) (Fig. 3) provided at each side of the carrier part; a stop means designed as a continuous loop or a continuous rope (30), and around which a segment of a continuous rope (30) is being hung.

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Re claim 3, Eggeman's device [3,002,780] has each projection (18,24) having recess (see Figs. 1 and 3) to guide the sling.

Re claim 5, Eggeman's device [3,002,780] further shows the projections being arranged in a shared horizontal plane in the operating of the device (see Fig. 3).

Re claim 9, Eggeman's device [3,002,780] shows an opening (8) (see Fig. 1) through which a loop segment of the sling can be guided.

Re claim 12, Eggeman's device [3,002,780] shows that the device is being fabricated as a single piece *via forging* (Col 2, lines 10-14).

11. Claims 1-3,5,6-10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wirkkala [2,789,003].

Wirkkala [2,789,003] discloses a lifting device comprising a carrier part having two opposed and spaced sides (see Fig. 1), each projection (40,40) (Fig. 1) provided at each side of carrier part; and around which a segment of a continuous rope (42) is being hung wherein the projection having a hook-shape. Wirkkala's device [2,789,003] contains all the structural elements as recited in claims 1 and 2, while the intended use (i.e. *for adjusting the effective length during transport of a load of a stop means designed as a continuous loop, in particular a textile band folded or woven into a circular part*) is not patentably significant. Wirkkala's device [2,789,003] would be capable of lifting a load by adjusting the effective length or height of the load by a hoist line (30) and by providing a substantially continuous rope (41) wrapping around the hook-shaped projection (40) to lift a heavy load.

Re claim 3, Wirkkala's device [2,789,003] provides each projection (40,40) having recess (43,43) (see Fig. 1) to guide the sling.

Re claim 5, Wirkkala's device [2,789,003] further shows the projections (40,40) being substantially arranged in a shared horizontal plane in the operating of the device (see Figs. 1 and 2).

Re claim 6, Wirkkala's device [2,789,003] further shows a deflection element (16) between the projections for providing an additional lifting device (20-22).

Re claim 7, Wirkkala [2,789,003], as best understood, shows an opening having an inner circular surface, which can be considered as a force-absorbing surface, over which the deflection element (16) is attached to the carrier part, and the surface is being located in a plane situated above the lifted load and projections of a lower tongs.

Re claim 8, Wirkkala's device [2,789,003] is arranged symmetrically to the middle axis of the carrier part.

Re claim 9, Wirkkala's device [2,789,003] further shows an opening (28) to receive a hoist line rope (30) through a vertical aperture (25), while the intended use or the functional limitation (i.e. through which a loop segment of the segment of the stop means can be guided) is not patentably significant.

Re claim 10, Wirkkala's device [2,789,003] shows an opening (see Fig. 1) and the deflection element or a hook (16) where the deflection element is pivoted at a pivot pin (18).

Claim Rejections - 35 USC § 103

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12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4, 13, and 15, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggeman [3,002,780] in view of Garret [5,103,755].

Re claim 4, Eggeman [3,002,780], as presented in section 10 above, does not show *markings on the projection* to indicate angularity of the rope or the stop means.

However, Garret [5,103,755] shows a hook having *markings (18,19,20)(Fig. 1) (14,16,19) (Fig. 5) on the hook to indicate load positions, angular load positions of hoist lines, including rope, slings, chains, webbing, and synthetic ropes (see Col 1, lines 6-23).*

Accordingly, it would have been an obvious to one of the ordinary skill in the art at the time the invention was made to provide *markings (18,19,20)(Fig. 1) or (14,16,19) (Fig. 5) on the projection (18,20) of the Eggeman's device [3,002,780] as taught by Garret [5,103,755] in order to indicate load positions, angular load positions of hoist lines, including rope, slings, chains, webbing, and also to provide as a safety indicator.*

Re claim 13, Eggeman [3,002,780] discloses a device for lifting a load, comprising a carrier part (see Figs. 1,3,5) having two opposed and spaced sides (18,20), each projection or hook (20,24) (Fig. 3) provided on each side; a stop means designed as a continuous rope (30) wherein the device being capable of substantially adjusting the effective length of the rope; a lifting device (38,40) (see Fig. 1); and around which a segment of a continuous rope (30) is being hung. It is also pointed out that the

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Eggeman's device [3,002,780] also shows the projection (18,24) where a segment of the rope (30) being wrapped around (see Fig. 1) linking the lifting device (38) and a lifted load. Eggeman's device [3,002,780] does not clearly show *a stop point or a lifting point* of a load.

However, Garret [5,103,755] shows a load having *a stop point or a lifting point* (see Figs. 10-13) to be attached to the lifting device (1). Accordingly, it would have been an obvious to one of the ordinary skill in the art at the time the invention was made to provide *the load having stop points or lifting points* on the Eggeman's device [3,002,780] as taught by Garret [5,103,755] so that the modified device would be capable of securely lifting the load by lifting points.

Re claim 15, the modified Eggeman's device [3,002,780] further shows an opening (8) through which a loop segment of the stop means or a rope (30) (see Fig. 1) being routed, and over which the segments of the rope are coupled with the lifting device (38) (Fig. 1).

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkkala [2,789,003] in view of Garret [5,103,755].

Wirkkala [2,789,003], as presented in section 11 above, does not show *markings on the projection* to indicate angularity of the rope position or the stop means.

However, Garret [5,103,755] shows a hook having *markings (18,19,20)(Fig. 1) (14,16,19) (Fig. 5) on the hook to indicate load positions, angular load positions of hoist lines, including rope, slings, chains, webbing, and synthetic ropes* (see Col 1, lines 6-23).

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Accordingly, it would have been an obvious to one of the ordinary skill in the art at the time the invention was made to provide *markings (18,19,20)(Fig. 1) (14,16,19) (Fig. 5) on the* projection (18,20) of the Wirkkala's device [2,789,003] as taught by Garret [5,103,755] in order to indicate load positions, angular load positions of hoist lines, including rope, slings, chains, webbing, and also to provide as a safety indicator.

15. Claim 11, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkkala [2,789,003] in view of Kirow [DL 022910].

Wirkkala's device [2,789,003], as presented in section 11 above, shows the deflection element (16) being pivotally connected to a pivot (18). Wirkkala's device [2,789,003] does not show that *the deflection element*, designed as a hook, is *rigidly* connected with the carrier part.

However, Kirow [DL 022910] discloses *a deflection element, designed as a hook (5), is rigidly* connected a carrier part (3). Accordingly, it would have been an obvious as an alternative design choice to provide *a deflection element, designed as a hook (5), to be rigidly* connected to the lower surface of the carrier part (13) of Wirkkala's device [2,789,003] as taught by Kirow [DL 022910] to restrict the pivotal and radial movement of the deflection element providing stability and stiffer lift.

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkkala [2,789,003] in view of Eggeman [3,002,780].

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Wirkkala's device [2,789,003], as presented in section 11 above, does not show that the device is *being fabricated by forging*.

However, Eggeman's device [3,002,780], as presented in section 10 above, shows that the device is being fabricated *as a single piece via forging* (Col 2, lines 10-14).

Accordingly, it would have been an obvious to fabricate the Wirkkala's device [2,789,003], *by forging* (instead of casting) as taught by Eggeman's device [3,002,780] as an alternative method of fabrication to provide as a single piece.

Allowable Subject Matter

17. Claim 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mickelson [1,441,737] shows a sling hook. Gale [2,793,904] also shows a lifting device having projections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

A handwritten signature in black ink, appearing to read "Paul Chin", with a stylized flourish at the end.

PAUL T. CHIN
Examiner
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PTC
July 23, 2003